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Trial Near for Man Charged in Shooting of Libyan

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DENVER, Nov. 1 — The trial of Eugene Tafoya, the former Green Beret charged in the shooting of a Libyan student last year, opens tomorrow in Fort Collins, Colo., with Mr. Tafoya's attorneys planning a last-ditch attempt to have the trial moved to another city.

Walter Gerash, one of two Denver lawyers representing Mr. Tafoya, said he would again seek a change of venue. District Court Judge J. Robert Miller of Larimer County has denied previous change of venue requests by Mr. Gerash.

Among other things, Mr. Gerash says the murder of two convenience store clerks near Fort Collins earlier this month could taint the minds of jurors against Mr. Tafoya. Though a man in Mississippi has confessed to the murders, Mr. Gerash says that people in Larimer County "are out for revenge — they want to punish someone for these shootings."

Mr. Tafoya, 47 years old, is charged with attempted murder in the October 1980 shooting of Faisal Zagallai, at the time a student at Colorado State University in Fort Collins, 62 miles north of Denver. Mr. Zagallai, 35 years old, was shot twice in the head but survived the assault, although blinded in one eye.

Links to Fugitive American

Federal investigators looking into the shooting said in July that they had found evidence, including bank and telephone records, that linked Mr. Tafoya to Edwin P. Wilson. Mr. Wilson is a former United States intelligence agent who is now a fugitive living in Libya and working for the Government of the militant Arab country in North Africa.

Last year, after the shooting but before he was arrested, Mr. Tafoya stayed for four months at an isolated English farm owned by Mr. Wilson, according to neighbors and local merchants in England.

However, Mr. Wilson has not been indicted in this case, and it is not clear whether he will figure in the trial. Mr. Wilson is under indictment for illegally shipping explosives to Libya and training terrorists there.

Stu VanMeveren, the District Attorney in Larimer County, will argue that Mr. Tafoya was hired on behalf of the Libyan government to assassinate Mr. Zagallai, who was a member of a group of dissident Libyan students at the university and a persistent critic of the re-

gime of Col. Muammar el-Qaddafi, the Libyan leader.

The police say Mr. Tafoya got into Mr. Zagallai's apartment by posing as a job interviewer. Mr. Zagallai told the police that 10 minutes after he arrived, Mr. Tafoya struck him, drew a gun and shot him twice in the head.

Mr. Tafoya admits he shot the student, but says he acted in self-defense. Last month, he called a news conference at the Larimer County jail and, against the advice of his attorneys, told reporters that at the time of the incident, he believed he was working for the Central Intelligence Agency.

Mr. Tafoya said he had received orders in an unmarked envelope he believed came from the C.I.A., asking him to visit Mr. Zagallai and tell him to tone down his anti-Libyan language. Mr. Tafoya says he was not ordered to shoot the student.

In addition, prosecutors have asked that Mr. Tafoya provide a tape that investigators may use to compare with a tape recording seized from his home in Truth or Consequences, N.M. In the tape, a man who identifies himself as Mr. Tafoya confesses to the bombing of an automobile in Kitchener, Ontario, that belonged to a man who says Mr. Wilson once sought him out to do business with the Libyans. The incident took place in May 1979.

No Others Are Charged

Although Mr. Tafoya has been charged with conspiracy to commit murder, no other person has been indicted as a co-conspirator in the shooting. Mr. VanMeveren said that under Colorado law, it was not necessary to name any specific co-conspirators in order to prosecute a person on conspiracy charges.

Judge Winner has set aside tomorrow and Tuesday to resolve several pretrial motions still pending in the case, and jury selection is to begin Wednesday. Attorneys for both sides said it could take two weeks to impanel a jury, and another three to four weeks to argue the case.

Mr. VanMeveren says he plans to call about 60 witnesses. A list of prospective witnesses filed by the district attorney's office included the names of two employees of the Central Intelligence Agency, as well as a former Green Beret who is said to have traveled to Libya with Mr. Tafoya.

Late Friday, the Supreme Court of Colorado denied a request from Mr. Gerash to change his client's plea from not guilty to not guilty by reason of insanity.

'Mental Aberration' Asserted

Mr. Gerash, who last month sought unsuccessfully to have himself and his partner, Scott Robinson, dismissed from the case, said they believed their client was suffering from what Mr. Gerash called a "mental aberration" that had only recently become clear to them. As a result, Mr. Gerash argues, they should be allowed to change Mr. Tafoya's plea.

A similar request from Mr. Gerash was denied earlier in the week by Judge Winner, following testimony by a psychiatrist who said that Mr. Tafoya showed no evidence of mental illness.

Mr. Gerash said he had sought to change his client's plea to not guilty by reason of insanity after receiving information that Mr. Tafoya had acted in what he called a bizarre fashion in an incident several years ago in New Mexico, in which Mr. Tafoya displayed a gun in public.